

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

-against-

**ROBERT J. MUELLER, DEEPROOT FUNDS
LLC (a/k/a dprt Funds, LLC), AND POLICY
SERVICES INC.,**

Defendants,

-and-

**DEEPROOT TECH LLC, DEEPROOT
PINBALL LLC, DEEPROOT STUDIOS LLC,
DEEPROOT SPORTS & ENTERTAINMENT
LLC, AND DEEPROOT RE 12621 SILICON DR
LLC,**

Relief Defendants.

Civil Action No.: 5:21-cv-785-XR

**DEFENDANT’S MOTION IN LIMINE TO EXCLUDE CERTAIN EVIDENCE OF
MUELLER’S COMPENSATION AND PERSONAL EXPENSES**

TO THE HONORABLE COURT:

Defendant Robert J. Mueller (“**Mueller**”) files this Motion in Limine seeking to exclude certain evidence of Mueller’s compensation and personal expenses. Evidence on these matters is irrelevant, inadmissible, and prejudicial to the material issues in this case.

The Court should prohibit Plaintiff Securities and Exchange Commission (the “**SEC**”) from attempts to introduce such evidence at trial.

I. GROUNDS

1. Plaintiff may seek to introduce and offer evidence related to investor funds that were used to pay certain personal expenses of Mueller as well as his compensation. Although

Mueller has agreed to stipulate to the amount of investor funds that were used for such payments, the SEC nevertheless intends to introduce other detailed evidence solely to unfairly prejudice Mueller and appeal to the jury's emotional response to those payments.

2. Specifically, Mueller has offered to stipulate as follows:

- **Mueller received \$ 1,046,935.73 in compensation (the total reflected in P-368) and \$ ----- via payment of personal expenses (the total reflected in P-367).¹**

3. Given Mueller's willingness to stipulate the total amounts of compensation and payments for personal expenses, the probative value, if any, of introducing records of the amount and nature of each individual payment is substantially outweighed by a danger of unfair prejudice, undue delay, wasting time, and needlessly presenting cumulative evidence under FED. R. EVID. 403.

4. If the SEC is correct that Mueller was not entitled to such payments, it is irrelevant how he used such funds. Specifically, because Mueller is stipulating and agreeing to the total amounts of compensation and payments for personal expenses he received, introduction of the nature or subsequent use of any payments (i.e., school tuition, clothing, jewelry, vacations, etc.) are irrelevant and could only be offered to prejudice Mueller and inflame the jury.

5. Further, this stipulation and motion in limine, if granted, will save substantial trial time and further the interests of judicial economy.

6. Thus, any evidence or testimony related to nature of Mueller's compensation and personal expenses—or anything other than the stipulated total amount—should be excluded under

¹ The SEC is still amending its exhibit P-367 based on discussions with counsel. Mueller anticipates being able to work with counsel to agree to the amount reflected in the final version of P-367. Once agreed, that amount would be substituted into this proposed stipulation.

FED. R. EVID. 403. Specifically, Mueller seeks an order prohibiting reference to or introduction of the following SEC exhibits or the contents thereof:

- **SEC Exhibits** (P-__): 82, 110, 111, 138, 139, 140, 141, 149, 150, 151, 152, 266, 267, 268, 269, 270, 271, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 299, 355, 356, 361, 362, 363, 367 (redacted), 368 (redacted).

PRAYER

For these reasons, Defendant Robert J. Mueller respectfully prays that the Court grant his Motion in Limine seeking to exclude certain evidence of Mueller's compensation and personal expenses (apart from the stipulated amount) and prohibit Plaintiff from introducing any evidence related to the same. Defendant further prays for all other relief to which it is entitled.

Dated: November 17, 2023

Respectfully submitted,

DAVIS & SANTOS, PLLC

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Counsel for Defendant Robert J. Mueller

CERTIFICATE OF SERVICE

I certify that on the 17th day of November 2023, the foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system and all counsel of record will receive an electronic copy via the Court's CM/ECF system.

/s/ Caroline Newman Small

Caroline Newman Small